

**AMENDMENTS TO THE DRAWINGS**

Please amend the drawings as follows:

Please replace drawing sheet 1/3 with the attached replacement drawing sheet 1/3. Figures 1 and 1(a) have been amended so that original reference characters RELIT and HLET are now REUT and MLET, respectively.

**REMARKS/ARGUMENTS**

Applicants would like to thank the Examiner for the careful consideration given the present application and for granting a personal interview in this case. The application has been carefully reviewed in light of the Office Action, and amended as necessary to more clearly and particularly describe the subject matter that applicants regard as the invention.

A personal interview was held on January 3, 2008. The participants were Examiner Ping Lee and attorney Brad Spencer. The attached amendments were discussed in view of the Shennib reference.

Turning to the outstanding Office action, the drawings, specifically Figs. 1 and 1(a), were objected to for being inconsistent with terms found in the specification. The noted figures have been amended to correct the inconsistencies.

Claims 1-6 were rejected under 35 U.S.C. 102(b) as being anticipated by Shennib (USPN 6,914,994 issued July 5, 2005). Applicants respectfully note that the rejections should not be made under 35 U.S.C. 102(b) because the Shennib patent issued after the present application was filed.

Claim 1 recites, “a first mode being realized so that the device in said ear of said individual is substantially transparent, said processing unit being controlled in said first mode by a dedicated program module independent of a second program module for a second of said at least two operating modes or being controlled by a program operating in said first mode, controlled by a dedicated set of parameters independent from a second set of parameters controlling said program in a second of said at least two operating modes and wherein said first mode is kept activated when said second of said at least two operating modes is activated as well.” The hearing device of claim 1 includes a first mode, in which the hearing device is

substantially transparent, that is kept activated when a second mode is activated. Shennib teaches both a transparent mode and an ON mode (3:39-44). However, Shennib does not teach or otherwise suggest that its transparent mode is kept activated when the ON mode is activated. Further, claim 1 recites independent program modules or parameters for the first and second modes. Shennib is silent with respect to whether its modes are independent.

The present application describes the transparent mode as a reference mode for further operating modes, which simplifies the programming of the hearing device (see, e.g., application page 5, line 28 through page 6, line 17). By providing a transparent reference mode, other modes may be programmed based thereon without having to account for insertion losses caused by the hearing device. Programming of other modes based on a transparent reference mode allows the programmer to essentially ignore the hearing device and treat an individual as if they are initially not wearing any hearing device. The programming may be done completely independently of the knowledge of the specific insertion loss which will be caused by a specific hearing device applied to a specific individual. However, because the “other modes” are programmed based on the transparent reference mode, the transparent reference mode is kept activated when the other modes are activated. Unlike Shennib, the transparent mode of claim 1 is not an alternative mode, but is kept activated when a second mode is activated as well.

For at least the reasons discussed above, claim 1 and dependent claims 2-4 are allowable over Shennib.

Claim 5 recites, “applying a first program module to control said signal processing unit in a transparent mode and simultaneously applying a second program module for controlling said processing unit additionally in a second processing mode or applying a first set of parameters controlling said processing unit in said transparent mode and simultaneously a second set of

parameters controlling said processing unit in a second mode.” The arguments provided above with respect to claim 1 are also applicable to claim 5. Applicants submits that claim 5 and dependent claim 6 are allowable over Shennib.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. TSW-36442.

Respectfully submitted,  
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